



COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent to Extend Collection

3038-0089: Swap Data Recordkeeping and Reporting Requirements: Pre-Enactment and Transition Swaps

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (“Commission” or “CFTC”) is announcing an opportunity for public comment on the proposed renewal of a collection of certain information by the agency. Under the Paperwork Reduction Act (“PRA”), Federal agencies are required to publish notice in the *Federal Register* concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on reporting requirements relating to swap data recordkeeping and reporting requirements codified in the Code of the Federal Regulations that imposes recordkeeping and reporting requirements on the following entities: Swap Dealers (“SDs”), Major Swap Participants (“MSPs”), and swap counterparties that are neither swap dealers nor major swap participants (“non-SD/MSP counterparties”).

DATES: Comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by “OMB Control No. 3038-0089” by any of the following methods:

- The Agency’s website, at <https://comments.cftc.gov/>. Follow the instructions for submitting comments through the website.

- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

- *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <https://www.cftc.gov>.

FOR FURTHER INFORMATION CONTACT: Isabella Bergstein, Attorney Adviser, Division of Data Policy, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581; (202) 993-1384; email: ibergstein@cftc.gov.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.*, Federal agencies must obtain approval from the Office of Management and Budget (“OMB”) for each collection of information they conduct or sponsor. “Collection of Information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the *Federal Register* concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the Commission is publishing notice of the proposed extension of the existing collection of information listed below. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.¹

¹The OMB control numbers for the CFTC regulations were published on December 30, 1981. *See* 46 FR 63035 (Dec. 30, 1981).

Title: Swap Data Recordkeeping and Reporting Requirements: Reenactment and Transition Swaps (OMB Control No. 3038-0089). This is a request for an extension of a currently approved information collection.

Abstract: Sections 4r(a)(2)(A) and 2(h)(5) of the Commodity Exchange Act requires the reporting of pre-enactment and transition swaps. Regulations 46.2, 46.3, and 46.11 establish reporting requirements that are mandated by 4r and 2(h) and, thus, are necessary to implement the objectives of 4r and 2(h). Regulation 46.2 establishes swap counterparties' recordkeeping requirements for pre-enactment and transition swaps. Regulation 46.3 establishes reporting requirements for uncleared pre-enactment or transition swaps in existence on or after April 25, 2011, and throughout the existence of the swap.² Regulation 46.11 addresses the reporting of errors and omission in previously reported data. The data required to be compiled and maintained pursuant to the Part 46 regulations would be used by the Commission and other financial regulators for fulfillment of various regulatory mandates. The collection of information is needed to ensure that the CFTC and other regulators have access to data regarding pre-enactment and transition swaps, as required by the Commodity Exchange Act as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"). With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;

²See 17 CFR part 46.1 (defining "pre-enactment swap" as any swap entered into prior to enactment of the Dodd-Frank Act of 2010 (July 21, 2010), the terms of which have not expired as of the date of enactment of that Act, and "transition swap" as any swap entered into on or after the enactment of the Dodd-Frank Act of 2010 (July 21, 2010) and prior to the applicable compliance date on which a registered entity or swap counterparty subject to the jurisdiction of the Commission is required to commence full compliance with all provisions of part 46).

- The accuracy of the Commission’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

You should submit only information that you wish to make available publicly. If you wish for the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission’s regulations.³

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <https://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection Request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The Commission estimates that the respondent burden for this collection is as follows:

- *Recordkeeping:*

³ See 17 CFR 145.9.

Estimated Number of Respondents: 30,108.

Estimated Average Burden Hours Per Respondent: 69.5 hours.

Estimated Total Annual Burden Hours: 13,506 hours.

Frequency of Collection: 1.

- *Reporting:*

Estimated Number of Respondents: 608.

Estimated Average Burden Hours Per Respondent: 5.64 hours.

Estimated Total Annual Burden Hours: 860 hours.

Frequency of Collection: Daily.

- *Total Annual Burden for the Collection:* 14,366 hours.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: April 20, 2022.

Robert Sidman,

Deputy Secretary of the Commission.

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